

CONSENT DECREE

I. Introduction

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and Kevin Beamish and Alana Beamish, Receivers, licensee of Station WJSZ(FM), Ashley, Michigan.

II. Definitions

2. For purposes of this Consent Decree, the following definitions shall apply:
- a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;
 - b) “Bureau” means the Media Bureau of the Federal Communications Commission;
 - c) “Commission” or “FCC” means the Federal Communications Commission;
 - d) “Compliance Plan” means the processes and procedures developed by the Receivers, in an effort to ensure compliance with the Act and the Rules regarding the maintenance of WJSZ(FM)’s public file.
 - e) “Effective Date” means the date on which the FCC releases the Order;
 - f) “Execution Date” means the date on which this Consent Decree is executed by the Parties;
 - g) “Order” means an Order of the Bureau adopting this Consent Decree;
 - h) “Parties” means the Bureau and the Receivers;
 - i) “Rules” means the Commission’s rules, found in Title 47 of the Code of Federal Regulations;
 - j) “Violations” means the violation of Section 73.3526 of the Rules; and
 - k) “Receivers” refers to Kevin Beamish and Alana Beamish, Receivers, licensee of Station WJSZ(FM), Ashley, Michigan.

III. Background

3) On June 3, 2004, Curwood Broadcasting Company, Corporation, the prior licensee of WJSZ(FM), filed a license renewal application.¹ On March 10, 2005, the Commission granted the involuntary assignment of the WJSZ(FM) license to the Receivers.² As a result of

¹ File No. BR-20040603ACE.

² File No. BALH-20050223BK.

disclosures made to the Bureau in the renewal application concerning compliance with the Commission's rule regarding maintenance of a station's public inspection file,³ the Bureau sought additional information by telephone.⁴ In response, the Receivers filed two amendments to the pending renewal application.⁵

IV. Agreement

4) The Receivers and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. The Receivers and the Bureau each represent and warrant that their signatory is duly authorized to enter into this Consent Decree on their behalf. The Receivers agree that the Bureau has jurisdiction over the matters contained in this Consent Decree.

5) The parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Receivers and the Bureau concerning WJSZ(FM)'s Violations as discussed herein.

6) In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violations in any action against the Receivers, provided that the Receivers satisfy all of their obligations under this Consent Decree. In the event that the Receivers fail to satisfy any of their obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to the Violations, and/or the violation of this Consent Decree.

7) The Receivers hereby stipulate that WJSZ(FM) was in violation of Section 73.3526 during the current license term.

8) The Receivers agree to make a voluntary contribution to the United States Treasury in the amount of Six Thousand Dollars (\$6,000), within thirty (30) days of the Effective Date of the Order. Such contribution shall be made, without further protest or recourse to a *trial de novo*, by mailing a check or similar instrument, payable to Federal Communications Commission. The payment must include FRN No. 0011611555. Any payment by check or money order may be mailed to the Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, Receiving Bank Mellon Bank, and Account Number 911-6106.

9) The Receivers stipulate that, as of the Effective Date of this Consent Decree WJSZ(FM)'s public file fully comports with Section 73.3526 of the Rules, except that the quarterly issues and programs lists begin with the third quarter of 2004. The Receivers further agree to implement the Compliance Plan (summarized in the Appendix) to ensure that WJSZ(FM)'s public file remains in compliance with Section 73.3526 of the Rules.

³ 47 C.F.R. § 73.3526.

⁴ 47 C.F.R. § 1.88.

⁵ The amendments were filed on March 24, 2005, and July 20, 2005, respectively.

10) The Receivers agree that they are required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that the Receivers fail to satisfy any condition or Commission rule, in the absence of Commission alteration of the condition or rule, they will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

11) This Consent Decree will be binding on the Receivers' successors and assigns. In addition, the Receivers agree to amend the pending application to assign Station WJSZ(FM) to include an agreement executed by the proposed assignee consenting to assumption of the responsibilities and duties set forth in this Consent Decree.⁶ In the event that this application for consent to assignment of license is withdrawn or dismissed, the Receivers agree that any future application to assign the WJSZ(FM) license will include an agreement executed by the proposed assignee consenting to assumption of the responsibilities and duties set forth in this Consent Decree.

12) The Receivers waive any and all rights they may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Order, provided the Order adopts the Consent Decree without change, addition or modification.

13) The Receivers agree to waive any claims they may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 C.F.R. Section 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

14) The Receivers and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition or modification.

15) The Receivers and the Bureau agree that if the Receivers, the Commission or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither the Receivers nor the Commission will contest the validity of the Consent Decree or Order, and the Receivers and the Commission will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and will consent to a judgment incorporating the terms of this Consent Decree.

16) The Receivers and the Bureau agree that, in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

17) This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

⁶ On March 15, 2005, the Receivers filed an application for consent to assignment of license, File No. BALH-20050315AEH, for WJSZ(FM) to Krol Communications, Inc.

KEVIN BEAMISH and ALANA BEAMISH,
RECEIVERS

By: _____
Kevin Beamish, Receiver

Date: _____

By: _____
Alana Beamish, Receiver

Date: _____

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
Donna C. Gregg, Chief

Date: _____

APPENDIX

Compliance Plan of KEVIN BEAMISH and ALANA BEAMISH, RECEIVERS

I. Kevin Beamish and Alana Beamish, Receivers, (“Receivers”), or successor licensee, as appropriate, will institute the following procedures:

(A) Quarterly programs and issues lists will be timely placed into WJSZ(FM)’s public file;

(B) Late-filed documents will be signed by the station manager and accompanied with a statement indicating the nature of the document and the date placed in the public file; and

(C) Management will emphasize to all employees the absolute requirement to follow all Commission rules, regulations, and policies and will fully explain the obligations imposed by Section 73.3526 of the Commission’s rules to that employee charged with maintenance of the station’s public file. Should the station owner or management learn that any FCC rule has been violated, the employee responsible will be subject to appropriate disciplinary action.

II. For a period of three years the Receivers or successor licensee, as appropriate, will conduct in-house audits of WJSZ(FM)’s public file as detailed below. The three year period will terminate on the successful completion of the third annual public file audit pursuant to Item II(C). The second and third audits pursuant to Item II(C) will be due on the anniversary of the first audit. The audits of the public file shall be performed as follows:

(A) quarterly audits, by telephone or facsimile, will be conducted by the Michigan Association of Broadcasters;

(B) a semi-annual review will be conducted by WJSZ(FM)’s personnel; and

(C) annual, in person, audits of WJSZ(FM)’s public file will be conducted by the Michigan Association of Broadcasters under the Alternative Broadcast Inspection Program. The first annual audit shall be completed not less than six months and not more than nine months following the Effective Date of the Consent Decree

III. The Receivers, or successor licensee, as appropriate, shall submit a yearly certification to the Commission that WJSZ(FM)’s public inspection file fully complies with Section 73.3526. If the Receivers cannot truthfully make this certification, they shall set forth in detail any public file deficiencies and list any corrective measures taken. This report shall be due within ten (10) days of the completion of the first annual public file audit pursuant to Item II(C) above, and on that date yearly thereafter in each year of the license term.

IV. The Compliance Plan, set forth above, will be under the direct supervision of the Receivers, or their appointees as designated by the Receivers, or in the event the Receivers are no longer with WJSZ(FM), their successor(s).